

BDCP Governance Structure

Governance for BDCP presents some very difficult questions because it must address the coordinated operations of the CVP and SWP, where CVP operations will be proceeding under Section 7 consultation and the SWP operations will be subject to the permit. While the resolution of the interplay of Section 7 and Section 10 will guide formulation of governance for BDCP, this paper focuses on other issues related to governance.

Program Implementation: There have been several different proposals regarding program implementation. We propose for implementation to occur for the state activities through a state BDCP program overseen by a state program manager, and on the federal side through a program, probably within Reclamation, and overseen by one or more federal program managers, with as much coordination as possible by the state and federal program managers. Implementation will be focused on two components, project operations and habitat restoration. The program managers would also oversee the monitoring and adaptive management programs.

In order to assure the program can be implemented as envisioned, the program managers will need to be delegated authority for all actions and functions, as well as have sufficient resources to fund all actions over the life of the permit. The authority and funding issues may present issues for implementation on the federal side.

There will also be a role for stakeholders in program implementation. We propose a stakeholder committee be created similar to the existing makeup of the steering committee, with the addition of other interested parties. If the federal agencies will be actually managing or controlling this committee and seeking consensus advice from the committee, it may need to be chartered under FACA. Some parties have also proposed a dispute resolution process. While this is common in HCPs, this will be complicated by Section 7/Section 10 interplay.

Real-time Operations: We proposed that real time operations continue to be coordinated through a structure similar to the current Water Operations Management Team (WOMT) for coordination of fish and ecosystem needs into real time operations. Consistent with the current WOMT process, each agency retains their statutory authority. The parameters of real time operations will be detailed in the Biological Opinion regarding CVP operations, and the Section 10 permit regarding SWP operations. Project agencies will maintain discretion for operations within the parameters of the Biological Opinion and Section 10 permit.

Inter-agency Annual Review: We propose an interagency annual review of operations similar to what is provided for in the 2009 NMFS CVP/SWP Operations BiOp. This would provide an opportunity for a science review of the previous year's operations, and agency and stakeholder review of, and input to, the operations plan for the next year by January of that year.

Habitat Restoration: We propose that the habitat restoration actions would be overseen by the program managers. Restoration may be conducted by a number of supporting entities, including the Delta Conservancy. We propose that restoration action proposed to be undertaken by Reclamation be

included as conservation measures in the Biological Assessment. These would include actions within the plan area that support the BDCP, as well as upstream actions.

Ongoing Federal Role: Consistent with the Five Point Policy, there will need to be active involvement by the federal resource agencies for implementation of the adaptive management program and compliance monitoring.